

Applicants : Seetharama A. Acharya and Belur N. Manjula  
Appn. No. : 10/538,976  
I.A. Filing Date : December 5, 2005  
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REMARKS

Claims 1-27 were pending in the subject application. By this amendment, Claims 1-7 and 22-27 have been canceled without prejudice or disclaimer; Claims 8 and 19-21 have been amended; and new Claim 28 has been added.

Applicants maintain that the claim amendments do not raise an issue of new matter. Support for the claim amendments can be found at least in the previous version of the claims.

The specification has been amended to update the priority data for the subject application, to add a Statement of U.S. Government Support, and to spell out “PEGylated” in paragraph [0005]. Figures 2A, 3 and 8 have been replaced to correct objections raised by the Examiner. Support for the amendment to Figure 2A can be found at least in Figure 2B. Support for the amendment to Figure 3 can be found at least in the legend for Figure 3. Support for the amendment to Figure 8 can be found at least in the previous version of the Figure 3. Applicants maintain that the amendments to the specification do not raise an issue of new matter.

Entry of the amendments is respectfully requested.

Objection to the Specification

1. The Examiner requested that the continuing data for the subject application be updated. Applicants note that the continuing data was updated in a Preliminary Amendment filed on June 14, 2005. However, to provide clarity, the first paragraph of the application has herein above been replaced with a replacement first paragraph that contains updated priority data for the application.
2. The Examiner indicated that “PEGylated” should be spelled out for the first instance of use in paragraph [0005]. The paragraph has herein above been amended accordingly.

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Reconsideration and withdrawal of these objections are respectfully requested.

#### Objections to the Claims

Claims 1-27 are objected to because “PEG” should be spelled out in full for the first time recitation. Independent Claim 8 has herein above been amended to spell out polyethylene glycol.

Reconsideration and withdrawal of this objection are respectfully requested.

#### Objections to the Drawings

Figure 2A is objected to because the vertical axis lacks the unit for “Absorbance”.

Figure 3 is objected to because the horizontal axis lacks index for “ml”.

Figure 8 is objected to because the labeling is unclear and because the legend (description) of the figure is presented in the figure.

Figures 2A, 3 and 8 have herein above been replaced to correct these objections.

Reconsideration and withdrawal of these objections are respectfully requested.

#### Rejections under 35 U.S.C. §112, Second Paragraph

Claims 7 and 19-21 are rejected as indefinite for reciting “non-hypertensive” without clarifying to what non-hypertensive refers. The claims have herein above been amended to clarify that non-hypertensive means that PEGylated hemoglobin does not produce hypertension in a subject.

Reconsideration and withdrawal of this rejection are respectfully requested.

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Rejections under 35 U.S.C. §102

1. Claims 1-27 are rejected under 35 U.S.C. §102(e) as anticipated by Winslow et al. (U.S. Patent No. 6,974,795 B2).

Applicants respectfully traverse this rejection.

As set forth in the attached Declaration of Seetharama A. Acharya and Belur N. Manjula under 37 C.F.R. §131, the inventors declare that they had reduced the claimed invention to practice in the United States before the January 11, 2002 priority date of Winslow et al. (U.S. Patent No. 6,974,795 B2). The inventors provide with their Declaration a redacted notebook page that they indicate was dated prior to January 11, 2002. Accordingly, Winslow et al. is not prior art under 35 U.S.C. §102(e).

Reconsideration and withdrawal of this rejection are respectfully requested.

2. Claims 1-7 are rejected under 35 U.S.C. §102(b) as anticipated by Acharya et al. (U.S. Patent No. 6,017,943).
3. Claims 1-7 are rejected under 35 U.S.C. §102(e) as anticipated by Acharya et al. (U.S. Patent No. 7,144,989).

Claims 1-7 have herein above been canceled, thereby rendering these rejections moot.

Supplemental Information Disclosure Statement

In accordance with the duty of disclosure under 37 C.F.R. §1.56, applicants would like to direct the Examiner's attention to the references that are listed on attached Form PTO/SB/08A. A copy of each non-U.S. patent document is attached hereto. Also attached hereto is a copy of a Supplementary European Search Report issued on October 24, 2007 in connection with counterpart European patent application No. 03799982.8.

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### CONCLUSIONS

In view of the amendments and remarks made hereinabove, reconsideration and withdrawal of the objections and rejections set forth in the July 27, 2007 Office Action and passage of the pending claims to allowance are respectfully requested. If there are any minor matters preventing the allowance of the subject application, the Examiner is requested to telephone the undersigned attorney.

A check for \$300.00 is enclosed for the \$120.00 fee for a one month extension of time and the \$180.00 fee for filing an Information Disclosure Statement. No additional fee is deemed necessary in connection with the submission of this reply. However, if any other fee is required to maintain the pendency of the subject application, authorization is hereby given to withdraw the amount of any such fee from Deposit Account No. 01-1785. Any overpayment may also be credited to Deposit Account No. 01-1785.

Respectfully submitted,  
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Dated: November 21, 2007  
New York, New York

By   
Alan D. Miller, Reg. No. 42,889